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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of)	
)	
Petition for Declaratory Ruling and Request for)	
Expedited Action on the July 15, 1997 Order of)	NSD File No. L-97-42
the Pennsylvania Public Utility Commission)	
Regarding Area Codes 412, 610, 215, and 717)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications act of 1996)	

**OPPOSITION TO PETITIONS FOR RECONSIDERATION OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Cellular Telecommunications Industry Association ("CTIA")¹ hereby submits its
Opposition to the petitions for reconsideration in the above captioned proceeding.²

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including 48 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

² Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, NSD File No. L-97-42; CC Docket No. 96-98, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd. 19009 (1998) ("Order").

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I. INTRODUCTION

In response to efforts by certain states to adopt numbering administration and conservation programs which were discriminatory against certain telecommunications carriers, CMRS providers petitioned the FCC to reassert its jurisdiction over numbering administration and prohibit states from requiring carriers to participate in discriminatory numbering administration programs. In the Order, the Commission granted the petitions, making it clear that, through the NANC, the Commission alone has jurisdiction over the distribution of telephone numbers for telecommunications carriers. The Commission explained that states have jurisdiction, conferred to them by the Commission, solely over the administration of area codes. To the extent that a numbering exhaust problem exists in a state, the Commission made it clear that the state's primary obligation was to develop a specific form of area code relief. Only once a state has established an implementation date for such action can it pursue number conservation methods in conjunction with the NXX code administrator.³

None of the petitions for reconsideration challenges the Commission's jurisdiction over the administration of numbering resources. Rather, petitioners take issue with the Commission's conclusions that some conservation methods may be discriminatory, or they argue that the state commissions have no incentive to discriminate in their management of numbers.⁴ They fail to recognize, however, that certain conservation proposals, such as number pooling, are discriminatory by nature regardless of the intentions of state regulators. Other petitioners restate

³ Id. at ¶ 24.

⁴ See Petition for Reconsideration of the New Hampshire Public Utilities Commission at 5 (filed Dec. 15, 1998).

many of the same arguments raised earlier. Namely, numbering crises exist in some markets and states are in the best position to resolve them.⁵

No one disputes that there is a shortage of numbering resources in some markets. This fact alone, however, does not warrant bestowing jurisdiction on the states for management of these situations, particularly when the shortages are directly attributable to the states' own failure to provide sufficient numbering resources through the proper exercise of the numbering authority the Commission has delegated to them.

The Commission properly has concluded that number conservation matters are best handled on a nationwide basis. CTIA, therefore, respectfully opposes the petitions for reconsideration and believes that the Commission correctly concluded that 1) certain numbering administration and conservation proposals may be discriminatory,⁶ and 2) conservation programs should be administered at the national level.⁷

⁵ See Petition for Reconsideration of the California Public Utilities Commission at 4-5 (filed Nov. 6, 1998); Petition for Reconsideration of the Pennsylvania Public Utilities Commission at 4 (filed Dec. 16, 1998); Petition for Reconsideration of the Massachusetts Department of Telecommunications & Energy at 4-7 (filed Oct. 26, 1998).

⁶ See Order at ¶ 38 ("For competition to continue to develop, all carriers must have access to numbering resources. Relying on experimental conservation methods, rather than planning for traditional area code relief, during the jeopardy period would place some carriers at risk . . .").

⁷ See id. at ¶ 21 ("[A] nationwide, uniform system of numbering is essential to the efficient delivery of telecommunications services in the United States. . . . Substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for number conservation and area code relief."); see also id. at ¶¶ 27, 30.

II. THE CMRS INDUSTRY IS COMMITTED TO WORKING WITH THE COMMISSION TO ADOPT EFFECTIVE, NATIONWIDE NUMBERING CONSERVATION PLANS.

As recognized in the Order, the Commission's efforts to adopt nationwide numbering conservation solutions require the cooperation and participation of state utility commissions. If states are permitted to adopt individual conservation solutions contrary to the conclusions reached in the Order, or are not required to participate in the Commission's and NANC's numbering administration plans, the states could effectively thwart the Commission's conservation efforts. Stated differently, states must be held to the requirements established in the Order if the Commission's efforts to deploy a nationwide numbering conservation program are to succeed.

The Commission made clear in its Order that states are not only prevented from independently adopting conservation methods, but that "the Commission retains authority to ensure that state commissions act consistently with federal regulations."⁸ To this end, states should be held to the express terms of the Order (and their petitions for reconsideration denied) and they must be required to participate in the numbering conservation programs adopted by the Commission consistent with the states' obligations to adopt area code relief when a code is determined to be in jeopardy.⁹ As the Commission concluded, "[i]n delegating authority to the state commissions to implement new area codes, we intended that state commissions would use that authority to implement relief when jeopardy has been declared."¹⁰

⁸ Id. at ¶ 34.

⁹ See id. at ¶¶ 25-26.

¹⁰ Id. at ¶ 32.

The importance of ensuring state participation in the Commission's numbering conservation efforts is reflected in a proposal recently submitted by CTIA to the Commission.¹¹ In that proposal, CTIA suggested that in a jeopardy situation a telecommunications carrier may request additional numbering resources only once it has reached a minimum threshold utilization rate of unavailable numbers (beginning at 60% and increasing to 70% by 2001). This proposal addresses numbering shortages in jeopardy markets.¹² It requires carriers to use their existing allocation of numbering resources more efficiently before they can request additional numbers.

The CTIA proposal relies on timely area code relief. While CTIA's proposal will create more efficient utilization of existing numbering resources in area codes that are in jeopardy, it also requires the timely establishment of new area codes so that carriers can be assured of an adequate supply of numbers once they have reached the required utilization threshold. In other words, if the Commission is going to require carriers to wait longer before they can receive new numbers by mandating a higher utilization of existing number assignments, it must have a new supply of numbers immediately available once that threshold is reached. Much like the vaunted "just-in-time" delivery system that creates greater manufacturing efficiency through the elimination of costly inventory, there is no room for delay or error on this matter. Thus, states must be required to deploy area code solutions in conjunction with the conservation proposal once jeopardy has

¹¹ Letter from Michael F. Altschul, Vice President, General Counsel, *CTIA*, to Yog Varma, Deputy Chief, Common Carrier Bureau, *FCC*, (Jan. 28, 1999) (on file in NSD File No. L-98-134).

¹² The CTIA proposal is also more efficient than number pooling. In a number pooling regime, carriers can easily bypass conservation efforts by assigning one number in each of the "1000" number blocks, making it impossible to return the entire code to the NXX administrator. Indeed, because business customers prefer "NXX-N000" numbers, these numbers are often the first to be assigned.

been declared in the market. In the event a state fails to carry out its obligations established in the Order, "[t]he Commission [has] reserved authority to act when a . . . state has acted inconsistently with Commission guidelines" ¹³ If numbering conservation efforts are going to succeed, the FCC must ensure that states fulfill their duties to provide area code relief. Absent state sponsored area code relief, efforts to implement a nationwide conservation program will be thwarted by the risk that there will not be sufficient numbering resources available when they are needed. As a result, the Commission must be prepared to enforce the states' obligations in matters concerning area code administration, and it must be prepared to order area code relief itself when a state fails to do so.


¹³ Order at ¶ 35.

III. CONCLUSION

For these reasons CTIA opposes the petitions for reconsideration and requests that all state commissions be required to comply with the requirements established in the Order.

Respectfully submitted,

**CELLULAR TELECOMMUNICATIONS
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February 4, 1999

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I, Rosalyn Bethke, hereby certify that, on 4 February 1999, copies of the foregoing "Opposition to Petitions For Reconsideration of The Cellular Telecommunications Industry Association" were delivered by first class mail, unless otherwise indicated, upon the following:

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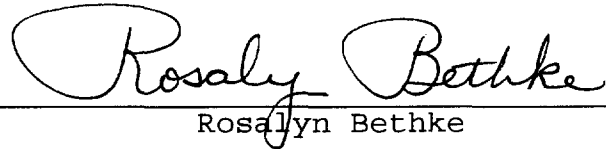
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